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Attorneys for Complainant

BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	NO. AC 95-1
Against:)	
)	
DAVID LEE ANDERSON)	DEFAULT DECISION
P.O. Box 1528)	
Novato, California 94948)	[Gov. Code §11520]
)	
California Certified Public)	
Accountant Certificate No. 21801)	
)	
Respondent.)	

FINDINGS OF FACT

1. On or about March 15, 1995, Complainant Carol Sigmman in her official capacity as Executive Officer of the Board of Accountancy, Department of Consumer Affairs State of California (hereinafter "Board"), filed Accusation No. AC 95-1 against David Lee Anderson. (hereinafter "respondent").

2. On or about March 24, 1995, Victoria Rivera, an employee of the Office of the Attorney General, sent by certified and regular mail a copy of Accusation No. AC 95-1, Statement to Respondent, Government Code sections 11507.5, 11507.6, and 11507.7, Notice of Defense forms, and a Request for Discovery to respondent's last address of record with the Board which was P.O.

1 Box 1582, Novato, California 94948. The documents which were
2 sent via regular mail to P.O. Box 1582, Novato, California 94948
3 were not returned. The green return receipt card of the
4 documents sent via certified mail was signed by "Karen
5 (?)ettenby" and was returned to our office.

6 On April 21, 1995, after respondent renewed his
7 license, the aforementioned documents were sent by regular and
8 certified mail to 24 Bretano Way, Greenbrae, California 94904,
9 which was and is respondent's current address of record with the
10 Board. The documents sent via certified and regular mail were
11 not returned. The above-described service was effective as a
12 matter of law pursuant to the provisions of California Government
13 Code section 11505, subdivision (c).

14 3. On August 1, 1975, the Board issued certified public
15 accountant certificate No. 21801 to David Lee Anderson. Said
16 certificate expired on April 1, 1993 for failure to pay renewal
17 fee and submit evidence of continuing education. Said
18 certificate became delinquent and was not valid during the period
19 of April 1, 1993 through April 12, 1994. However, said
20 certificate was renewed, effective April 13, 1994, for the period
21 of April 13, 1994 through March 31, 1995. Said certificate is
22 currently in full force and effect and expires, subject to
23 renewal, April 1, 1997.

24 4. Business and Professions Code section 118 provides,
25 in pertinent part:

26 "(b) The suspension, expiration, or forfeiture by
27 operation of law of a license issued by a board in the
department, or its suspension, forfeiture, or cancellation

1 by order of the board or by order of a court of law, or its
2 surrender without the written consent of the board, shall
3 not, during any period in which it may be renewed, restored,
4 reissued, or reinstated, deprive the board of its authority
5 to institute or continue a disciplinary proceeding against
6 the licensee upon any ground provided by law or to enter an
7 order suspending or revoking the license or otherwise taking
8 disciplinary action against the license on any such ground."

9 5. Government Code section 11506 provides, in
10 pertinent part:

11 "(b) The respondent shall be entitled to a hearing on
12 the merits if he files a notice of defense, and any such
13 notice shall be deemed a specific denial of all parts of the
14 accusation not expressly admitted. Failure to file such
15 notice shall constitute a waiver of respondent's right to a
16 hearing, but the agency in its discretion may nevertheless
17 grant a hearing"

18 6. Respondent failed to file a Notice of Defense
19 within 15 days after service upon him of the Accusation and
20 therefore waived his right to a hearing on the merits of
21 Accusation No. AC 95-1.

22 7. Government Code section 11520 provides, in
23 pertinent part:

24 "(a) If the respondent fails to file a notice of
25 defense or to appear at the hearing, the agency may take
26 action based upon the respondent's express admissions or
27 upon other evidence and affidavits may be used as evidence
without any notice to respondent;"

1 8. Pursuant to its authority under Government Code
2 section 11520, and based on the evidence before it, the Board
3 finds that the following allegations contained in the Accusation
4 No. AC-95-1 are true:

5 A. On or about March 26, 1993, Ms. Mautner provided
6 respondent Anderson with substantially all the data and records
7 required to prepare her 1992 federal and state income tax
8 returns. She confirmed with respondent by telephone before the
9 end of March, 1993, that there was adequate time to complete the
10 tax returns prior to the April 15, 1993 due date. After several
11 phone calls to respondent's office and home inquiring about the
12 returns, Ms. Mautner wrote a certified letter dated April 27,
13 1993 to respondent inquiring as to whether an extension had been
14 filed and requesting return of her records by May 6, 1993, if he
15 was unable to complete the job. Ms. Mautner received no response
16 from respondent Anderson. On or about January 11, 1994, as a
17 direct result of having received a subpoena to produce client
18 records from the Board, respondent Anderson returned Ms.
19 Mautner's records.

20 B. On or about April 5, 1993, Mr. Murray provided
21 respondent with records and information for completion of his
22 1992 state and federal income tax returns. He was assured by
23 respondent that an extension would be filed and the returns would
24 be completed by April 19, 1993. In late April, 1993, Mr. Murray
25 made several phone calls to respondent inquiring about the status
26 of his returns and never received a return call. On or about
27 June 7, 1993, Mr. Murray went to respondent's office and
requested the return of his tax records and was told that said

1 records were at respondent's house and that the records and
2 completed returns would be mailed by June 14, 1993.

3 Mr. Murray did not receive his tax records nor his
4 completed returns as respondent promised by June 14, 1993 and on
5 July 5, 1993, Mr. Murray sent a letter to respondent demanding
6 his tax records and data be returned by July 15, 1993. Said
7 records were not returned by respondent until late 1993.

8 C. In early 1993, Mr. Eisenberg and his sister
9 delivered their records to respondent Anderson for preparation of
10 their 1992 tax returns by April 15, 1993. Said returns were not
11 filed by respondent by April 15, 1993 as promised and Mr.
12 Eisenberg thereafter requested return of the tax records. Said
13 records were not returned until mid to late 1993.

14 D. In early 1993, Ms. Zari gave respondent records and
15 data for preparation of her, her mother's and mother-in-law's
16 1992 state and federal tax returns. As of July 13, 1993, said
17 returns had not been filed nor had an extension been filed. Ms.
18 Zari made several phone calls to respondent inquiring into the
19 status of the returns. Said returns were finally prepared by
20 respondent in late 1993.

21 E. In February 1993, respondent received records and
22 data from Container Providers, Inc. for preparation of the 1992
23 state and federal tax returns by April 15, 1993. Said returns
24 were not filed as promised, and on June 17, 1993, Linda Giersing,
25 office manager of Container Providers, Inc., requested the return
26 of the records. After no response from respondent, Ms. Giersing
27 made a subsequent demand for return of the records on July 8,
1993. Said records were not returned until late 1993.

1 F. In or early February, 1993, respondent Anderson
2 received records from John Likas for preparation of his 1992
3 state and federal taxes. After said returns were not received by
4 April 15, 1993, Mr. Likas made several phone calls and sent
5 several letters requesting a return of his records and inquiring
6 into the status of the returns. Mr. Likas received no response
7 from respondent, and as of September 23, 1993, the records had
8 not been returned.

9 G. In late February or March 1993, respondent received
10 tax records and data for preparation of Mr. Fuller's 1992 state
11 and federal tax returns. Mr. Fuller made several phone calls to
12 respondent prior to April 15, 1993, and thereafter, inquiring
13 about the status of the returns. When he received no response,
14 he requested return of his records. In July 1993, Mr. Fuller
15 visited respondent's office in Novato and found an instruction to
16 leave a message and respondent would respond. However, Mr.
17 Fuller received no response from respondent. Finally, in
18 October, 1993, Mr. Fuller attempted to locate respondent at his
19 residence and was unable to make contact with respondent. Said
20 records were finally returned to Mr. Fuller in late 1993.

21 H. In early March 1993, Mr. Griesbach and his wife met
22 with respondent and left with respondent all records and data
23 pertinent for preparation of their 1992 state and federal tax
24 returns. On April 8, 1993, Mr. Griesbach telephoned respondent's
25 office inquiring of the status of his returns. Mr. Griesbach was
26 told by respondent's secretary that his returns would be ready by
27 April 15, 1993 or an extension would be filed. When Mr.
Griesbach heard nothing by April 15, he telephoned again and

1 received no response. After several phone calls went unanswered,
2 Mr. Griesbach wrote a letter requesting return of all records so
3 that he could obtain services of another accountant. Mr.
4 Griesbach received no response. Said records were finally
5 returned in late 1993.

6 I. In mid-February, 1993, Mr. and Mrs. Riley delivered
7 all of their relevant tax records and information for preparation
8 of their 1992 state and federal income tax returns. Despite
9 repeated promises, no returns were ever received from respondent.
10 Finally in mid-April, 1993, respondent informed Mr. and Mrs.
11 Riley that he had procured an extension. As of May 28, 1993,
12 respondent had not prepared Mr. and Mrs. Riley's returns nor
13 returned their tax records as requested.

14 J. Ms. Modell provided respondent Anderson with records
15 and data well in advance of April 15, 1993 for preparation of her
16 1992 state and federal tax returns. Ms. Modell made several
17 phone calls to respondent inquiring as to the status of her
18 returns and never received a response. In May, 1993, Ms. Modell
19 hired another to prepare her tax returns for 1992 and requested a
20 return of all her records and data submitted to respondent. Said
21 records were finally returned in late 1993.

22 K. Mr. Enersen delivered to respondent Anderson all
23 records and data pertinent for preparation of his 1992 federal
24 and state tax returns on or about October 5, 1993. Respondent
25 assured Mr. Enersen that the returns would be ready to meet the
26 October 15, 1993 extension deadline. Mr. Enersen did not receive
27 the return by October 15, 1993 as respondent promised, and after
dozens of unreturned phone calls, Mr. Enersen wrote to respondent

1 requesting that his records be returned. Finally on November 24,
2 1993, respondent contacted Mr. Enersen and promised that the
3 returns would be filed by December 2, 1993. As of December 30,
4 1993, the returns had not been filed nor had Mr. Enersen's
5 records been returned.

6 L. Respondent's license to practice as a CPA expired on
7 March 31, 1993, yet respondent continued to hold himself out and
8 practice with an expired license.

9 M. On or about February 25, 1994, Division of
10 Investigations, Investigator Wong went to respondent's office
11 located at 1701 Bel Marin Keys in Novato, and found that there
12 was a listing of "David L. Anderson, CPA" on the building
13 directory and on respondent's office door.

14 DETERMINATION OF ISSUES

15 1. Respondent is subject to disciplinary action
16 pursuant to Business and Professions Code section 5100 (f) in
17 conjunction with Title 16, California Code of Regulations,
18 section 68 for retaining tax records and failing to return them
19 upon demand, by reason of the Finding of Facts numbers 1 through
20 9 A-C and 9 E-K, above.

21 2. Respondent is subject to disciplinary action
22 pursuant to Business and Professions Code section 5100 (h) in
23 that he breached his fiduciary duty to his clients when he failed
24 to timely prepare their tax returns as promised, by reason of
25 Finding of Facts numbers 1 through 9A-K.

26 3. Respondent is subject to disciplinary action
27 pursuant to Business and Professions Code section 5055 for
practicing accountancy during a period when his license had

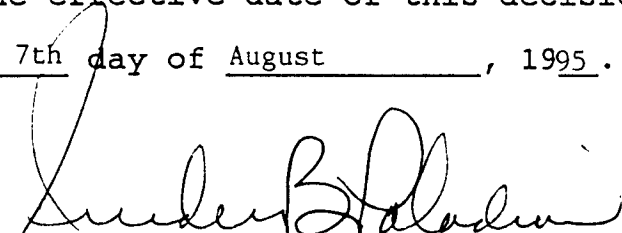
1 expired, by reason of the Finding of Facts numbers 1 through 9 A-
2 M, above.

3 ORDER OF THE BOARD

4 California Certified Public Accountant Certificate No. 21801
5 heretofore issued to respondent David Lee Anderson, is hereby
6 revoked. An effective date of September 6, 1995, has been
7 assigned to this Order.

8 Pursuant to Government Code section 11520, subdivision
9 (b), respondent is entitled to make any showing by way of
10 mitigation prior to the effective date of this decision.

11 Made this 7th day of August, 1995.

12 
13
14 FOR THE BOARD

COPY

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of the State of California
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BEFORE THE
BOARD OF ACCOUNTANCY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation) No.: AC-95-1
Against:)
DAVID LEE ANDERSON)
P. O. Box 1528)
Novato, CA 94948)
California Certified Public)
Accountant Certificate #21801)
Respondent.)

Carol Sigmann, as cause for discipline alleges:

1. She is the Executive Officer of the State Board of
Accountancy, Department of Consumer Affairs, State of California,
and files this Accusation in her official capacity as such.

2. On August 1, 1975, the Board of Accountancy
(hereafter referred to as Board) issued certified public
accountant certificate No. 21801 to David Lee Anderson (hereafter
referred to as respondent Anderson). Said certificate expired on
April 1, 1993 for failure to pay renewal fee and submit evidence
of continuing education. Said certificate became delinquent and

1 was not valid during the period of April 1, 1993 through April
2 12, 1994. However, said certificate was renewed, effective April
3 13, 1994, for the period of April 13, 1994 through March 31,
4 1995. Said certificate is currently in full force and effect and
5 expires, subject to renewal, April 1, 1995.

6 3. Business and Professions Code section 5055
7 provides, in pertinent part, that no person shall assume or use
8 the title, designation, or abbreviation of Certified Public
9 Accountant (CPA), unless that person holds a valid permit to
10 practice.

11 4. Business and Professions Code section 5100
12 provides, in pertinent part, that the Board may revoke, suspend,
13 or refuse to renew any permit or certificate granted under
14 Article 4 (commencing with section 5070) and Article 5
15 (commencing with section 5080), or may censure the holder of that
16 permit or certificate for unprofessional conduct which includes
17 but is not limited to one or any combination of the following:

18 ... (f) wilful violation of this chapter or any rule or
19 regulation promulgated by the Board

20 ... (h) fiscal dishonesty or breach of fiduciary
21 responsibility of any kind.

22 5. Business and Professions Code section 5107 provides
23 in pertinent part: "The executive officer of the Board may
24 request the Administrative Law Judge, as part of the proposed
25 decision in a disciplinary proceeding, to direct any holder of a
26 permit or certificate found guilty of unprofessional conduct
27 . . . to pay to the Board all reasonable costs of investigation

1 and prosecution of the case, including attorney's fees."

2 6. Title 16, California Code of Regulations,
3 Section 68 provides, in pertinent part, that a licensee of the
4 Board, after demand by or on behalf of a client, for books,
5 records or other data, whether in written or machine sensible
6 form, that are the client's records shall not retain such
7 records.

8 GABRIELLA MAUTNER

9 7. On or about March 26, 1993, Ms. Mautner provided
10 respondent Anderson with substantially all the data and records
11 required to prepare her 1992 federal and state income tax
12 returns. She confirmed with respondent by telephone before the
13 end of March, 1993, that there was adequate time to complete the
14 tax returns prior to the April 15, 1993 due date. After several
15 phone calls to respondent's office and home inquiring about the
16 returns, Ms. Mautner wrote a certified letter dated April 27,
17 1993 to respondent inquiring as to whether an extension had been
18 filed and requesting return of her records by May 6, 1993, if he
19 was unable to complete the job. Ms. Mautner received no response
20 from respondent Anderson. On or about January 11, 1994, as a
21 direct result of having received a subpoena to produce client
22 records from the Board, respondent Anderson returned Ms.
23 Mautner's records.

24 8. Respondent has subjected his license to discipline
25 under Business and Professions Code section 5100 (f) in
26 conjunction with Title 16, California Code of Regulations,
27 Section 68 in that he retained Ms. Mautner's tax records and did

1 not relinquish them after she demanded their return, until
2 ordered to do so by the Board.

3 9. Respondent has subjected his license to discipline
4 under Business and Professions Code section 5100 (h) in that he
5 breached his fiduciary duty to Ms. Mautner when he failed to
6 timely prepare Ms. Mautner's 1992 tax returns as promised.

7 JOHN MURRAY

8 10. On or about April 5, 1993, Mr. Murray provided
9 respondent with records and information for completion of his
10 1992 state and federal income tax returns. He was assured by
11 respondent that an extension would be filed and the returns would
12 be completed by April 19, 1993. In late April, 1993, Mr. Murray
13 made several phone calls to respondent inquiring about the status
14 of his returns and never received a return call. On or about
15 June 7, 1993, Mr. Murray went to respondent's office and
16 requested the return of his tax records and was told that said
17 records were at respondent's house and that the records and
18 completed returns would be mailed by June 14, 1993.

19 Mr. Murray did not receive his tax records nor his
20 completed returns as respondent promised by June 14, 1993 and on
21 July 5, 1993, Mr. Murray sent a letter to respondent demanding
22 his tax records and data be returned by July 15, 1993. Said
23 records were not returned by respondent until late 1993.

24 11. Respondent has subjected his license to discipline
25 under Business and Professions Code section 5100 (f) in
26 conjunction with Title 16, California Code of Regulations,
27 Section 68 in that he retained Mr. Murray's tax records and did

1 not relinquish them after Mr. Murray demanded their return, until
2 ordered to do so by the Board.

3 12. Respondent has subjected his license to discipline
4 under Business and Professions Code section 5100 (h) in that he
5 breached his fiduciary duty to Mr. Murray when he failed to
6 timely prepare Mr. Murray's 1992 tax return as promised.

7 LAWRENCE EISENBERG

8 13. In early 1993, Mr. Eisenberg and his sister
9 delivered their records to respondent Anderson for preparation of
10 their 1992 tax returns by April 15, 1993. Said returns were not
11 filed by respondent by April 15, 1993 as promised and Mr.
12 Eisenberg thereafter requested return of the tax records. Said
13 records were not returned until mid to late 1993.

14 14. Respondent has subjected his license to discipline
15 under Business and Professions Code section 5100 (f) in
16 conjunction with Title 16, California Code of Regulations,
17 Section 68 in that he retained Mr. Eisenberg's tax records and
18 did not relinquish them after he demanded their return, until
19 ordered to do so by the Board.

20 15. Respondent has subjected his license to discipline
21 under Business and Professions Code section 5100 (h) in that he
22 breached his fiduciary duty to Mr. Eisenberg when he failed to
23 timely prepare Mr. Eisenberg's 1992 tax return as promised.

24 WILMA ZARI

25 16. In early 1993, Ms. Zari gave respondent records
26 and data for preparation of her, her mother's and mother-in-
27 law's 1992 state and federal tax returns. As of July 13, 1993,

1 said returns had not been filed nor had an extension been filed.
2 Ms. Zari made several phone calls to respondent inquiring into
3 the status of the returns. Said returns were finally prepared by
4 respondent in late 1993.

5 17. Respondent has subjected his license to discipline
6 under Business and Professions Code section 5100 (h) in that he
7 breached his fiduciary duty to Ms. Zari when he failed to timely
8 prepare Ms. Zari's 1992 tax return as promised.

9 CONTAINER PROVIDERS, INC.

10 18. In February 1993, respondent received records and
11 data from Container Providers, Inc. for preparation of the 1992
12 state and federal tax returns by April 15, 1993. Said returns
13 were not filed as promised, and on June 17, 1993, Linda Giersing,
14 office manager of Container Providers, Inc., requested the return
15 of the records. After no response from respondent, Ms. Giersing
16 made a subsequent demand for return of the records on July 8,
17 1993. Said records were not returned until late 1993.

18 19. Respondent has subjected his license to discipline
19 under Business and Professions Code section 5100 (f) in
20 conjunction with Title 16, California Code of Regulations,
21 Section 68 in that he retained Container Providers, Inc.'s tax
22 records and did not relinquish them after Ms. Giersing demanded
23 their return, until ordered to do so by the Board.

24 20. Respondent has subjected his license to discipline
25 under Business and Professions Code section 5100 (h) in that he
26 breached his fiduciary duty to Container Providers, Inc. when he
27 failed to timely prepare said company's 1992 tax return as

1 promised.

2 JOHN LIKAS

3 21. In or early February, 1993, respondent Anderson
4 received records from John Likas for preparation of his 1992
5 state and federal taxes. After said returns were not received by
6 April 15, 1993, Mr. Likas made several phone calls and sent
7 several letters requesting a return of his records and inquiring
8 into the status of the returns. Mr. Likas received no response
9 from respondent, and as of September 23, 1993, the records had
10 not been returned.

11 22. Respondent has subjected his license to discipline
12 under Business and Professions Code section 5100 (f) in
13 conjunction with Title 16, California Code of Regulations,
14 Section 68 in that he retained John Likas' tax records and did
15 not relinquish them after Mr. Likas demanded their return, until
16 ordered to do so by the Board.

17 23. Respondent has subjected his license to discipline
18 under Business and Professions Code section 5100 (h) in that he
19 breached his fiduciary duty to John Likas when he failed to
20 timely prepare Mr. Likas' 1992 tax return as promised.

21 BLAIR FULLER

22 24. In late February or March 1993, respondent
23 received tax records and data for preparation of Mr. Fuller's
24 1992 state and federal tax returns. Mr. Fuller made several
25 phone calls to respondent prior to April 15, 1993, and
26 thereafter, inquiring about the status of the returns. When he
27 received no response, he requested return of his records. In

1 July 1993, Mr. Fuller visited respondent's office in Novato and
2 found an instruction to leave a message and respondent would
3 respond. However, Mr. Fuller received no response from
4 respondent. Finally, in October, 1993, Mr. Fuller attempted to
5 locate respondent at his residence and was unable to make contact
6 with respondent. Said records were finally returned to Mr.
7 Fuller in late 1993.

8 25. Respondent has subjected his license to discipline
9 under Business and Professions Code section 5100 (f) in
10 conjunction with Title 16, California Code of Regulations,
11 Section 68 in that he retained Blair Fuller's tax records and did
12 not timely return them upon demand by Mr. Fuller.

13 26. Respondent has subjected his license to discipline
14 under Business and Professions Code section 5100 (h) in that he
15 breached his fiduciary duty to Blair Fuller when he failed to
16 timely prepare Mr. Fuller's 1992 tax return as promised.

17 WALTER GRIESBACH

18 27. In early March 1993, Mr. Griesbach and his wife
19 met with respondent and left with respondent all records and data
20 pertinent for preparation of their 1992 state and federal tax
21 returns. On April 8, 1993, Mr. Griesbach telephoned respondent's
22 office inquiring of the status of his returns. Mr. Griesbach was
23 told by respondent's secretary that his returns would be ready by
24 April 15, 1993 or an extension would be filed. When Mr.
25 Griesbach heard nothing by April 15, he telephoned again and
26 received no response. After several phone calls went unanswered,
27 Mr. Griesbach wrote a letter requesting return of all records so

1 that he could obtain services of another accountant. Mr.
2 Griesbach received no response. Said records were finally
3 returned in late 1993.

4 28. Respondent has subjected his license to discipline
5 under Business and Professions Code section 5100 (f) in
6 conjunction with Title 16, California Code of Regulations section
7 68 in that he retained Walter Griesbach's tax records and did not
8 relinquish them after Mr. Griesbach demanded their return, until
9 ordered to do so by the Board.

10 29. Respondent has subjected his license to discipline
11 under Business and Professions Code section 5100 (h) in that he
12 breached his fiduciary duty to Walter Griesbach when he failed to
13 timely prepare Mr. Griesbach's 1992 tax return as promised.

14 MR. AND MRS. RILEY

15 30. In mid-February, 1993, Mr. and Mrs. Riley
16 delivered all of their relevant tax records and information for
17 preparation of their 1992 state and federal income tax returns.
18 Despite repeated promises, no returns were ever received from
19 respondent. Finally in mid-April, 1993, respondent informed Mr.
20 and Mrs. Riley that he had procured an extension. As of May 28,
21 1993, respondent had not prepared Mr. and Mrs. Riley's returns
22 nor returned their tax records as requested.

23 31. Respondent has subjected his license to discipline
24 under Business and Professions Code section 5100 (f) in
25 conjunction with Title 16, California Code of Regulations,
26 Section 68 in that he retained Mr. and Mrs. Riley's tax records
27 and did not relinquish them after they demanded their return,

1 until ordered to do so by the Board.

2 32. Respondent has subjected his license to discipline
3 under Business and Professions Code section 5100 (h) in that he
4 breached his fiduciary duty to Mr. and Mrs. Riley when he failed
5 to timely prepare Mr. and Mrs. Riley's 1992 tax return as
6 promised.

7 JUDITH MODELL

8 33. Ms. Modell provided respondent Anderson with
9 records and data well in advance of April 15, 1993 for
10 preparation of her 1992 state and federal tax returns. Ms.
11 Modell made several phone calls to respondent inquiring as to the
12 status of her returns and never received a response. In May,
13 1993, Ms. Modell hired another to prepare her tax returns for
14 1992 and requested a return of all her records and data submitted
15 to respondent. Said records were finally returned in late 1993.

16 34. Respondent has subjected his license to discipline
17 under Business and Professions Code section 5100 (f) in
18 conjunction with Title 16, California Code of Regulations,
19 Section 68 in that he retained Ms. Modell's tax records and did
20 not relinquish them after she demanded their return, until
21 ordered to do so by the Board.

22 35. Respondent has subjected his license to discipline
23 under Business and Professions Code section 5100 (h) in that he
24 breached his fiduciary duty to Ms. Modell when he failed to
25 timely prepare Ms. Modell's 1992 tax return as promised.

26 GARY ENERSEN

27 36. Mr. Enersen delivered to respondent Anderson all

1 records and data pertinent for preparation of his 1992 federal
2 and state tax returns on or about October 5, 1993. Respondent
3 assured Mr. Enersen that the returns would be ready to meet the
4 October 15, 1993 extension deadline. Mr. Enersen did not receive
5 the return by October 15, 1993 as respondent promised, and after
6 dozens of unreturned phone calls, Mr. Enersen wrote to respondent
7 requesting that his records be returned. Finally on November 24,
8 1993, respondent contacted Mr. Enersen and promised that the
9 returns would be filed by December 2, 1993. As of December 30,
10 1993, the returns had not been filed nor had Mr. Enersen's
11 records been returned.

12 37. Respondent has subjected his license to discipline
13 under Business and Professions Code section 5100 (f) in
14 conjunction with Title 16, California Code of Regulations,
15 Section 68 in that he retained Mr. Enersen's tax records did not
16 timely return them upon demand by Mr. Enersen.

17 38. Respondent has subjected his license to discipline
18 under Business and Professions Code section 5100(h) in that he
19 breached his fiduciary duty to Mr. Enersen when he failed to
20 timely prepare Mr. Enersen's 1992 tax return as promised.

21 39. Respondent David Anderson has subjected his
22 certificate to discipline under Business and Professions Code
23 section 5055 in that his license to practice as a CPA expired on
24 March 31, 1993 for failure to pay the required renewal fee, yet
25 respondent continued to hold himself out and practice with an
26 expired license. The circumstances follow:

27 A. Respondent continued to practice and hold himself

1 out to his clients as a licensed CPA as more specifically set
2 forth in paragraphs 7, 10, 13, 16, 18, 21, 24, 27, 30, 33, and
3 36, above.

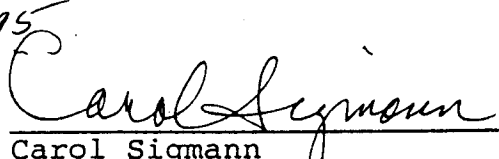
4 B. On or about February 25, 1994, Division of
5 Investigations, Investigator Wong went to respondent's office
6 located at 1701 Bel Marin Keys in Novato, and found that there
7 was a listing of "David L. Anderson, CPA" on the building
8 directory and on respondent's office door.

9
10 PRAYER

11 WHEREFORE, complainant requests that the Board hold a
12 hearing on the matters alleged herein, and that following said
13 hearing, the Board issue a decision:

- 14 1. Revoking or suspending CPA certificate no. 21801
15 issued to respondent David Lee Anderson
16 2. Awarding the Board costs as provided by statute.
17 3. Taking such other and further action as the Board
18 deems proper.

19 Dated: *March 15, 1995*

20 
21 Carol Sigmann
22 Executive Officer
23 Board of Accountancy
24 Department of Consumer Affairs
25 State of California

26 Complainant
27

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